

Public Service Reform Directorate
Local Government Division
Public Service Reform Directorate
3-J North, Victoria Quay
EDINBURGH

T: 0131-244 7051 F: 0131-244 7020
E: Raymond.Convill@scotland.gsi.gov.uk

Directors of Finance of Scottish Local Authorities
Lead Housing Officials of Scottish Local Authorities
Convention of Scottish Local Authorities (COSLA)
Scottish Water

5th February 2009

Dear Sir/Madam

AMENDED GUIDANCE ON LOCAL AUTHORITY DISCRETION TO REDUCE COUNCIL TAX DISCOUNT ON SECOND HOMES AND LONG-TERM EMPTY PROPERTIES

Introduction

1. The Scottish Government and COSLA have agreed to make changes to the way in which additional council tax revenue raised from reducing the discount on second homes and long-term empty properties can be spent, to permit local authorities as well as Registered Social Landlords (RSLs) to use this funding and widen the range of housing activities to which funds can be applied. The changes were set out in a letter to local authorities on the 31 October 2008. This letter provides further detailed guidance and gives the additional facility to allow these funds to:

- buy off-the-shelf houses from private developers for affordable housing use;
- be used to support revenue expenditure related to the delivery of agreed housing activities; and
- be disbursed to other organisations and individuals beyond Registered Social Landlords (RSLs) and Councils.

2. This guidance note replaces that issued on 16 December 2005 by the then Scottish Executive on local authority discretion to reduce council tax discount on second homes and long-term empty properties.

Background

3. No changes have been made to the discretion to reduce or retain council tax discount on second homes and long-term empty properties.

4. From 1 April 2005 Ministers granted local authorities the discretion to reduce or retain the council tax discount on second homes and long-term empty properties to between 10% and 50%. Local authorities can reduce or retain the discount within their entire area, or in particular areas only. They also have discretion to differentiate between second homes and long-term empty properties. The 10% level exists to allow the additional income generated from reducing the discount to be identified.

5. When determining policy in relation to the discount, local authorities may refer to their Housing Need and Demand Assessment and their Local Housing Strategy (LHS) to determine the effect of second home ownership and long-term empty properties in their areas. This will allow them to decide whether a reduced discount would help to address any problems arising from these type of properties.

Housing projects to be funded or supported

6. The additional income is retained locally and has until now been mainly routed through RSLs for the provision of new-build affordable social housing to meet locally-determined priorities as set out in the LHS.

7. The Scottish Government and COSLA have agreed that there are benefits in making changes to the way in which this income can be spent in advance of any more far reaching changes to local taxation. Local authorities may now use this income themselves and have further flexibility to disburse these funds to other organisations and individuals, as well as RSLs. In addition to provision of new-build affordable housing, funding of Rural Home Ownership Grants and funding of specified elements of water and sewerage infrastructure for new homes, this income can now be used by local authorities to support revenue and capital expenditure related to the following housing activities:

- new council house building;
- bringing empty properties back into affordable housing use;
- land acquisition for affordable housing development;
- purchasing off-the-shelf houses from private developers for affordable housing use¹.

8. In making decisions on the funding of organisations and individuals, other than RSLs, local authorities will clearly wish to assess the financial viability of projects and issues relating to security of tenure and affordability.

9. Using this income to support prudential borrowing for new council house building and any of the housing activities listed above is permitted. This could mean a local authority taking on a long term commitment that it will need to be able to service even if the additional income from reducing council tax discount disappears. Ultimately, it is for councils to administer this in line with the prudential code for capital finance.

10 Local authorities may use the additional income to fund or support discrete projects or top up funding from other sources, and will need to ensure that expenditure complies with European Commission State Aid rules².

¹ This will be governed by the same criteria applied to the Affordable Housing Investment Programme - Housing Investment Division regional offices can provide further guidance on this.

² More information is available at www.stateaidscotland.gov.uk

Strategic Planning

11. Local authorities should set out future plans for expenditure of additional income in their Strategic Housing Investment Plans, which will reflect the key objectives set out in their Local Housing Strategies.

Grant Procedures

12. In order to ensure consistency for RSLs involved, local authorities and any other organisations/individuals to which these resources are disbursed will be required to use the Housing Association Grant (HAG) procedures, including physical quality minimum standards and standard HAG financial appraisal assumptions.

13. To ensure consistency in the appraisal and approval of Rural Home Ownership Grant projects, local authorities using their additional income for discrete Rural Home Ownership Grant projects and any other organisations/individuals to which these resources are disbursed will be required to use the Rural Home Ownership Grant procedures.

Regulations - clarification

14. The regulations which implemented the new regime (The Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005 SSI 2005/51) were passed by Parliament and came into force on 1 April 2005.

15. Previously there was uncertainty regarding what is meant by “*parts of their areas*” at article 4(b) of the regulations. The intention is to give local authorities the power to exempt areas within their council from any reduction in discount, or to set a different level of reduced discount to that of other areas. Local authorities can use either postcode boundaries or council wards as a means of identifying “parts of their area”.

16. Requests were received from local authorities to amend the regulations to allow a specific exemption for armed forces personnel living in a job-related dwelling. However the exemption in the regulations already caters for all jobs where accommodation is provided by the employer.

17. Some local authorities have sought clarification from us as to how the income from the reduced discount should be factored in to the sums passed to Scottish Water. The income from the reduced discount remains council tax income, and as such should be factored in to the ABCD formula in full. So for the purposes of calculating the amount of money to be passed to Scottish Water, in the “ABCD” formula, A will be the total amount paid to a local authority as council tax or water services charges including the amount paid as a consequence of properties that are subject to a reduced discount, and D will be the total amount of council tax payable in that particular year including any amounts that are due as a consequence of the reduced discount.

Local Authority use of discretionary power

18. Based on 2008-2009 returns from local authorities, 21 local authorities apply a discount of 10% for second homes and long term empty dwellings and a further three apply the 10% discount to second homes only; one applies a discount of 25% to both; and seven retain the 50% discount for both. (See **Annex A**) The percentages applied have changed little since the introduction of this power.

Additional income

19. The level of central government grant is not reduced as a result of local authorities reducing the level of discount. Second homes and long-term empty properties are counted as half a dwelling in the calculation of the council tax base, regardless of what a council does with the discount. The council tax base is used in calculating local authorities' grant from the Scottish Government.

20. Local authorities are required to ensure that a sum equal to the additional monies, collected as a result of reducing the level of discount, is used for the purposes set out in paragraph 7 by either transferring the resource to an RSL, another organisation, individual or using it themselves.

21. In calculating the amount to be spent, authorities are required to take into account all monies received as a result of reducing the level of discount, irrespective of the year to which the monies relate.

22. Where resources are being allocated to RSLs they will need a firm commitment regarding funding levels due to the fact that once project costs are legally committed, they cannot be withdrawn. It may be difficult for local authorities to be certain of the amounts to be allocated at the beginning of any financial year. This being the case, local authorities can wait until the following financial year, when actual funding levels are known, before allocating this funding to RSLs, in partnership with their housing colleagues and the Scottish Government Housing Investment Division. The deadline for finalising the levels of funding each local authority will provide from previous years is no later than 30 June after the end of the preceding financial year.

23. Nothing in the above precludes local authorities from allocating funding to relevant projects at any point during the course of the year within which it is being collected.

24. Local authorities will be required to provide details of the additional monies collected on an annual basis to the Scottish Government through the March CTRR return. Where this resource is being allocated to RSLs or other organisations/individuals this will allow the lengthy project planning and housing approval processes to be agreed as early as possible between local authorities, the Scottish Government Housing Investment Division and other strategic partners.

25. Accounting for the reduced discount scheme should be on an income and expenditure basis. Any payments to RSLs or other organisations/individuals should be treated as General Fund expenditure in accordance with proper accounting practice.

26. A sum equal to the additional monies collected but not yet spent by the local authority or paid to RSLs or other organisations/individuals should form part of the annual accounts. Any sum not represented by a year end creditor or provision will be required to be held as an earmarked reserve in the General Fund. All accounting entries relating to the additional monies collected but not yet spent by the local authority or paid to RSLs or other organisations/individuals should be in accordance with proper accounting practice.

27. Where reduced discount money has not been spent, it should accrue interest from the start of the financial year following the year of collection. Interest should accrue at the same rate applied to other savings held by local authorities.

Monitoring

28. The CTAXBASE return will remain in its present format. As stated above homes in receipt of a reduced discount will still be counted as half a dwelling for Revenue Support Grant calculation purposes.

29. Each local authority will be required to submit a short report, no later than the end of March each year (beginning March 2009), to the Scottish Government's Local Government Division. This report should include details of the local authority's policy in relation to the discount for the forthcoming year, and should be sent either to raymond.convill@scotland.gsi.gov.uk, or

Local Government Division
Public Service Reform Directorate
Scottish Government
Area 3J North
Victoria Quay
Edinburgh EH6 6QQ.

A draft pro-forma for reporting these details is attached at **Annex B**.

30. As at present, each authority will also be required to provide, on the March CTRR return³, details of the amount billed and amount received through the additional revenue generated by reducing the discount; and, on an amended Local Financial Return, the amount designated either for local authority expenditure and/or transfer to RSLs, and other organisations or individuals.

31. Separate monitoring will be required as follows:-

- Where local authorities fund discrete RSL projects, details of each project funded will be supplied by the local authority to the Scottish Government at tender approval and completion stages for all provision funded or supported via the additional income.
- Where local authorities use funding to secure the purchase of land for future RSL affordable housing developments; or to fund specific water and wastewater infrastructure costs as part of an agreed RSL affordable housing programme, this should be reported in writing to the Scottish Government on an annual basis to allow a funding reconciliation process to be undertaken.
- Where local authorities top up existing Scottish Government funding for specific RSL projects or transfer resources to provide additional funding for new eligible projects, the Scottish Government will be responsible for recording and reporting all information at tender approval and project completion stage.
- Where local authorities are responsible for managing development funding, any additional funding will be identified on the Scottish Government's Grant Administration IT System – (RESOURCE), and monitoring provided in this way.

Enforcement

32. By the end of **August** each financial year, the Scottish Government will compare reported expenditure against reported additional income which local authorities expect to generate from reducing the discount. If the two amounts do not match, an explanation will be sought from the local authority concerned. If, following this explanation, the Scottish

³Statistical return:- Council Tax and Community Charge receipts

Government considers the money has not been directed, or will not be in the future, towards the housing activities set out in paragraph 4 then this will be reflected within that local authority's grant via a redetermination within the following financial year's Local Government Finance Order, which sets out grant levels for local authorities. The money taken from the grant will then be provided to the Scottish Government Housing Investment Division for housing projects within the area of the local authority concerned.

Publicity

33. Local authorities should consider how they will publicise their policy in relation to the discounts, prior to the financial year to which the policy relates. One way of doing this would be to announce the policy alongside the announcement regarding council tax levels, however this is left to the discretion of each local authority.

Enquiries

34. If you have any questions or comments regarding this guidance please call Keith Fernie (Housing Markets and Supply Division) on 01382 427523, or Merlin Kemp on 0131 244 7008 (Local Government Division) or me.

Yours faithfully,

Raymond Convill

cc Scottish Federation of Housing Associations

Council Tax		
	Discount on	Discount on
2008-09	Second Homes	Long Term Empty Properties
Aberdeen City	10%	10%
Aberdeenshire	10%	10%
Angus	10%	50%
Argyll & Bute	10%	10%
Clackmannanshire	50%	50%
Dumfries & Galloway	10%	10%
Dundee City	50%	50%
East Ayrshire	50%	50%
East Dunbartonshire	50%	50%
East Lothian	10%	10%
East Renfrewshire	50%	50%
Edinburgh, City of	10%	10%
Eilean Siar	10%	10%
Falkirk	10%	10%
Fife	10%	10%
Glasgow City	10%	50%
Highland	10%	10%
Inverclyde	10%	50%
Midlothian	10%	10%
Moray	10%	10%
North Ayrshire	10%	10%
North Lanarkshire	10%	10%
Orkney Islands	10%	10%
Perth & Kinross	10%	10%
Renfrewshire	50%	50%
Scottish Borders	10%	10%
Shetland Islands	10%	10%
South Ayrshire	25%	25%
South Lanarkshire	10%	10%
Stirling	10%	10%
West Dunbartonshire	50%	50%
West Lothian	10%	10%
CTAS 2008 Return		

Local Authority Discount Policy in relation to Council Tax Discount for Second Homes and Long-Term Empty Dwellings

Name of local authority

Percentage discount on second homes

Percentage discount on long term empty dwellings

If discount is modified for particular areas within a local authority, please provide details

Please provide a brief description of the policy reasons for the discount applied in your local authority area

Contact name and telephone number